

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ARCOP, INC.,

Plaintiff,

v.

TYSON FOODS, INC.; TYSON CHICKEN, INC.; TYSON BREEDERS, INC.; TYSON POULTRY, INC.; PILGRIM'S PRIDE CORPORATION; KOCH FOODS, INC.; JCG FOODS OF ALABAMA, LLC; JCG FOODS OF GEORGIA, LLC; KOCH MEAT CO., INC.; SANDERSON FARMS, INC.; SANDERSON FARMS, INC. (FOOD DIVISION); SANDERSON FARMS, INC. (PRODUCTION DIVISION); SANDERSON FARMS, INC. (PROCESSING DIVISION); HOUSE OF RAEFORD FARMS, INC.; MAR-JAC POULTRY, INC.; PERDUE FARMS, INC.; PERDUE FOODS, LLC; WAYNE FARMS, LLC; FIELDALE FARMS CORPORATION; GEORGE'S, INC.; GEORGE'S FARMS, INC.; SIMMONS FOODS, INC.; SIMMONS PREPARED FOODS, INC.; O.K. FOODS, INC.; O.K. FARMS, INC.; O.K. INDUSTRIES, INC.; PECO FOODS, INC.; HARRISON POULTRY, INC.; FOSTER FARMS, LLC; FOSTER POULTRY FARMS; CLAXTON POULTRY FARMS, INC.; MOUNTAIRE FARMS, INC.; MOUNTAIRE FARMS, LLC; MOUNTAIRE FARMS OF DELAWARE, INC.; AGRI STATS, INC.; AMICK FARMS, LLC; CASE FOODS, INC.; CASE FARMS, LLC; CASE FARMS PROCESSING, INC.; KEYSTONE FOODS LLC; EQUITY GROUP EUFAULA DIVISION, LLC; EQUITY GROUP KENTUCKY DIVISION LLC; and EQUITY GROUP-GEORGIA DIVISION LLC,

Defendants.

Case No: 1:22-cv-02121

Jury Trial Demanded

(Related to *In re Broiler Chicken Antitrust Litigation* – Case No. 1:16-cv-08637)

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff ARCOP, Inc. (“ARCOP” or “Plaintiff”) is an Ohio not-for-profit corporation with its headquarters in Atlanta, Georgia. ARCOP is the national supply chain cooperative for Arby’s franchised and company-owned restaurants.

2. During the relevant time period, ARCOP negotiated and contracted with Defendants for the production and supply of Broilers. ARCOP also utilized distributors to supply its restaurants with Broilers purchased on their behalf pursuant to these negotiations and contracts. These distributors include Performance Food Group, Inc. and its affiliated entities (“PFG”), Shamrock Foods (“Shamrock”), I Supply Co. (“I Supply”) and Willow Run Foods, Inc. (“Willow”), who have each assigned their claims arising out of these transactions to ARCOP.

3. ARCOP brings this action on its own behalf, and as assignee of PFG, Shamrock, I Supply and Willow and their affiliates (collectively, “Assignors”). The references in this Complaint to “ARCOP” and/or “Plaintiff” include ARCOP’s Assignors.

4. During the time period relevant to ARCOP’s claims, ARCOP and/or its Assignors directly purchased Broilers in the United States from Defendants and/or their co-conspirators, and sustained injury and damages as a proximate result of the antitrust violations and other unlawful activities alleged in this Complaint.

5. ARCOP brings this action for damages under the federal antitrust laws against the defendants identified below, and incorporates by reference Track 2 Direct Action Plaintiffs’ Second Amended Consolidated Complaint and Demand for Jury Trial [ECF Nos. 5455, 5456], filed in *In re Broiler Chicken Antitrust Litigation*, 1:16-cv-08637 (N.D. Ill.) on February 28, 2022.¹

¹ Pursuant to the Court’s Orders in *In re Broiler Chicken Antitrust Litig.*, 1:16-cv-08637, the Direct Action Plaintiffs now encompass two Tracks – Track 1 includes Direct Action Plaintiffs who filed a stipulation to proceed to Trial on Track 1 prior to the January 7, 2022 deadline, while Track 2 DAPs include the other Direct Action Plaintiffs who filed a stipulation to proceed to Trial on Track

6. ARCOP joins Section II of the Track 2 Direct Action Plaintiffs' Second Amended Consolidated Complaint and Demand for Jury Trial [ECF Nos. 5455, 5456], adding the following to specify ARCOP's causes of action and the Defendants and Co-Conspirators in ARCOP's action.

Plaintiff Name	Operative Complaint (Reference is to Sealed Version, if applicable)	Named Defendants (Not Previously Dismissed) ²	Named Co- Conspirators (if any)	Causes of Action
ARCOP Inc.	To Be Determined	Agri Stats; Case; Claxton; Fieldale Farms; Foster Farms; George's; Harrison; House of Raeford; Keystone Foods; Koch; Mar-Jac; Mountaire Farms; O.K. Foods; Peco; Perdue; Pilgrim's Pride; Sanderson Farms; Simmons; Tyson; Wayne Farms	Allen Harim; Amick;	Count 1 (Sherman Act Claim for all Anticompetitive Conduct); Count 2 (Sherman Act Claim for Output Restriction); Count 3 (Sherman Act Claim for GA Dock Manipulation); Count 5 (Sherman Act Claim for Bid Rigging); Count 6 (Sherman Act Claim for Price Fixing)

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Enter joint and several judgments against all Defendants in favor of Plaintiff;

2. [ECF No. 5305, 5334]. On February 28, 2022, pursuant to the Court's Order, Track 2 Direct Action Plaintiffs filed a second amended consolidated complaint that "will be the operative complaint for Track Two DAPs" [ECF Nos. 5305, 5427]. In an effort to promote efficiency given the Court's reference to similar abbreviated Complaints as helpful to the Court [ECF No. 4139], Plaintiff files this abbreviated pleading that incorporates by reference and adopts the allegations set forth in Track 2 Direct Action Plaintiffs' Second Amended Consolidated Complaint and Demand for Jury Trial. If the Court prefers a different form or process, Plaintiff will withdraw this pleading and proceed according to the Court's direction.

² Shamrock opted out of the Direct Purchaser class settlements with Pilgrim's, Tyson, Fieldale Farms, George's, and Peco, and subsequently assigned to ARCOP those claim rights arising out of purchases for ARCOP. PFG opted out of the Direct Purchaser class settlement with Fieldale Farms, and subsequently assigned to ARCOP those claim rights arising out of purchases for ARCOP.

B. Award Plaintiff damages in an amount to be determined at trial to the maximum extent allowed under federal antitrust laws, and enter a joint and several judgment in favor of Plaintiff against Defendants in an amount to be trebled to the extent such laws permit;

C. Award Plaintiff its post-judgment interest as provided by law, with such interest to be awarded at the highest legal rate;

D. Award Plaintiff its attorneys' fees, litigation expenses, and costs, as provided by law; and

E. Grant Plaintiff such other and further relief that the Court may deem just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a trial by jury on all issues so triable.

Dated: April 25, 2022

By: /s/David B. Esau

David B. Esau
Kristin A. Gore
Garth T. Yearick
Amanda R. Jesteadt
Stephen A. Cohen
CARLTON FIELDS, P.A.
525 Okeechobee Boulevard, Suite 1200
West Palm Beach, Florida 33401
Tel: (561) 659-7070
Fax: (561) 659-7368
desau@carltonfields.com
kgore@carltonfields.com
gyearick@carltonfields.com
ajesteadt@carltonfields.com
scohen@carltonfields.com

Roger S. Kobert
CARLTON FIELDS, P.A.
Chrysler Building
405 Lexington Avenue, 36th Floor
New York, New York 10174-3699
Tel: (212) 785-2577
Fax: (212) 785-5203
rkobert@carltonfields.com

Scott L. Menger
CARLTON FIELDS, LLP
2029 Century Park East, Suite 1200
Los Angeles, CA 90067
Tel: (310) 843-6300
Fax: (310) 843-6301
smenger@carltonfields.com

Aaron A. Holman
CARLTON FIELDS, P.A.
200 S. Orange Avenue, Suite 1000
Orlando, FL 32801
Tel: (407) 849-0300
Fax: (407) 648-9099
aholman@carltonfields.com

Counsel for Plaintiff ARCOP, Inc.

Kevin Tottis
Keith M. Stolte
Monica L. Thompson
TOTTISLAW
One East Wacker Drive, Suite 1205
Chicago, Illinois 60601
Tel: (312) 527-1400
Fax: (312) 589-7192
ktottis@tottislaw.com
kstolte@tottislaw.com
mthompson@tottislaw.com

*Designated Local Counsel for Plaintiff under N.D.
Ill. LR 83.15*